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10 **UNITED STATES DISTRICT COURT**
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

12
13 TEESPRING,

14 Plaintiff,

15 v.

16 VIRALSTYLE LLC,

17 Defendant.

Case No. _____

COMPLAINT

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Teespring (“Plaintiff”), by its attorneys, states as follows:

1. This is a copyright infringement action. Plaintiff seeks damages and injunctive relief against Defendant Viralstyle LLC (“Defendant”), who knowingly and willfully infringed Plaintiff’s copyrighted works by copying Plaintiff’s proprietary garment template images and posting them to Defendant’s own website.

THE PARTIES

2. Plaintiff Teespring is a Delaware corporation with a principal office located at 460 Bryant St. Suite 200 San Francisco, California 94107.

3. On information and belief, Defendant Viralstyle LLC is a Florida corporation located at 11800 Dr. Martin Luther King Jr St N, Unit 2302, St. Petersburg, FL 33716.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction based upon 28 U.S.C. §§ 1331, 1338(a).

5. This Court has personal jurisdiction over Defendant at least because Defendant has transacted business in the state from which this action arises, and because the Defendant knowingly engaged in infringement of property owned therein.

6. Venue in this Court is proper under 28 U.S.C. §§ 1391(b) and 1400(a).

FACTS

7. Since 2011, Plaintiff provides a platform at teespring.com that allows users to upload their own customized garment designs and “crowdfund” them. Specifically, Plaintiff allows users to select colors and upload designs for a variety of apparel styles, choose a sales goal, and launch their own clothing campaign. The user sets pricing and promotes their product. If a user reaches his or her sales goal, Plaintiff handles the production and distribution of the user’s customized garment and sends the user a check as agreed between the user and the Teespring service.

8. In order to allow users to envision what their garment designs will look like when produced, teespring.com uses a series of transparent garment templates (“Garment Templates”). These transparent images of the various apparel styles available for production on teespring.com allow users to accurately gauge the appearance of their designs on an apparent three-dimensional

garment. Below is an example of one of Plaintiff's transparent Garment Templates, as well as the same template image placed over a color swatch to demonstrate the transparency effect:



9. Each Garment Template is created by posing, lighting and photographing a particular garment such that its folds and shadows create the impression of depth corresponding to a garment that is being worn.

10. The completed transparent Garment Template can be placed over a color or uploaded digital image to create an apparent three-dimensional version of a user's clothing design.

11. The realism of Plaintiff's Garment Templates helps drive Plaintiff's business. Potential designers that can clearly see what their designs will look like on a real garment are more confident in seeking to sell their designs online. Similarly, potential buyers are more likely to purchase a garment when they can see what it will look like when it is being worn.

12. Due to the way Plaintiff's Garment Templates are created, each is composed of a unique arrangement of pixels and is thus identifiable via a pixel value analysis.

13. The following are some of the Garment Templates available on teespring.com: a Men's Crewneck T-Shirt, front and back ("Crewneck"); a Women's T-Shirt, front and back ("Women's"); a Long-Sleeve T-Shirt, front and back ("Long-Sleeve"); and a Hooded Sweatshirt, front and back ("Hoodie"). Images of each Garment Template are attached as Exhibit 1.

1 14. Plaintiff is the owner of the copyright registrations for the Long-Sleeve and Hoodie
2 Garment Templates. The Long-Sleeve template bears Copyright Registration No. VA0001926744.
3 The Hoodie template bears Copyright Registration No. VA0001926803.

4 15. Go Media, Inc., a company that produces and sells commercial images, is the owner
5 of the copyright registrations for the Crewneck and Women's Garment Templates. The Crewneck
6 template bears Copyright Registration No. VA0001926746. The Women's template bears Copyright
7 Registration No. VA0001926742.

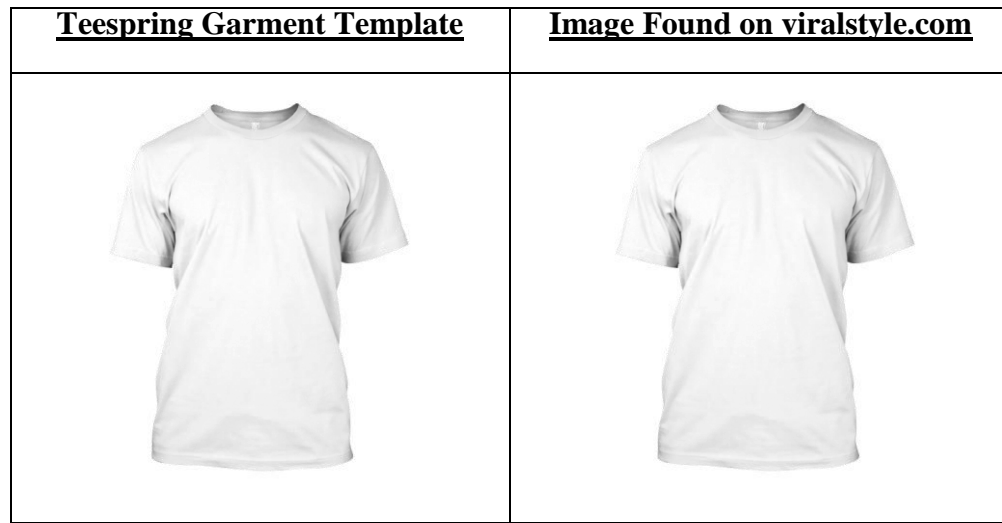
8 16. Plaintiff owns the exclusive license to reproduce, display, distribute, create derivative
9 works of or otherwise use the Crewneck and Women's Garment Templates, in whole or in part, in
10 connection with any web-based and mobile design applications.

11 17. Defendant operates a website at viralstyle.com that is similar to the site found at
12 teespring.com.

13 18. On information and belief, Defendant also allows users to design custom apparel by
14 uploading images and designs to viralstyle.com, to set sales goals for the sale of such apparel, and to
15 sell the apparel when that sales goal is met.

16 19. During a review of viralstyle.com, Plaintiff's employees noticed that Defendant was
17 utilizing transparent garment images that appeared to be identical to the Garment Templates owned or
18 licensed by Plaintiff. The garment images on viralstyle.com have folds and shadows in exactly the
19 same configuration as found in the Garment Templates created by Plaintiff. The viralstyle.com
20 images are also transparent, allowing them to be placed over user selected colors or uploaded designs.
21 Copies of the garment images displayed on viralstyle.com are attached as Exhibit 2.

22 20. The following is a side by side comparison of images of men's T-shirts, taken from
23 viralstyle.com and teespring.com:
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21. A pixel analysis of the images obtained from viralstyle.com showed a 100% pixel match between the images found on Defendant's site and Plaintiff's Garment Templates.

22. A 100% pixel match can only come from a direct and exact copy. Even if Defendant had made or obtained similarly staged apparel photographs to make transparent garment templates, those newly created templates would not be an exact pixel match to Plaintiff's Garment Templates.

23. On information and belief, Defendant obtained the garment images displayed upon viralstyle.com by navigating to teespring.com and copying the Garment Templates from Plaintiff's website.

24. By copying and utilizing Plaintiff's Garment Templates, Defendant unfairly reaps the benefits of Plaintiff's exclusive copyright interest in the images in connection with web-based and mobile design applications.

25. On September 10, 2014, counsel for Plaintiff sent a letter to Defendant identifying the infringing garment images, explaining the pixel analysis demonstrating that Defendant's images were, in fact, exact copies of Plaintiff's Garment Templates and requesting that all infringing copies of Teespring Garment Templates be removed from viralstyle.com.

26. Defendant responded on October 6, 2014 stating that it would make "the appropriate changes to its website to address the issues set forth in" Plaintiff's September 10, 2014 letter.

27. On October 7, 2014 Plaintiff again directed a letter to Defendant requesting the removal of all copies of Plaintiff's Garment Template images from viralstyle.com.

28. As of October 22, 2014, the infringing images were still being used on Defendant's site.

29. On information and belief, Defendant intends to continue its infringement of Plaintiff's copyrights unless restrained by this court.

COUNT I –COPYRIGHT INFRINGEMENT

30. Paragraphs 1 through 29 are incorporated by reference as if fully set forth herein.

31. Plaintiff is the sole owner of the Long-Sleeve and Hoodie templates, as well as the corresponding copyrights and Certificates of Registration.

32. Plaintiff is the exclusive licensee of the Crewneck and Women's templates, both of which bear Certificates of Registration.

33. Defendant has intentionally infringed the copyrights underlying Plaintiff's Garment Templates by the unauthorized copying and displaying of infringing materials in the United States.

34. Defendant's infringement has led to its own unjust enrichment and injured Plaintiff in amounts to be determined at trial.

35. On information and belief, Defendant intends to continue their infringement of Plaintiff's copyrights unless restrained by this court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Teespring respectfully requests that this Court enter a Judgment against Defendant as follows:

A. Awarding damages in an amount to be determined at trial, including without limitation compensatory, restitutionary, punitive and exemplary damages;

B. Requiring Defendant, including its officers agents, servants, employees and any and all persons in active concert or participation with it who receive actual notice of the Order, be enjoined and restrained, by preliminary and permanent injunction and ordered:

(i) To cease all use or display of Plaintiff's Garment Templates; and

(ii) To deliver to this Court by a date which the Court shall direct for impounding during the pendency of this action, all such infringing materials in Defendant's

1 possession, custody or control.

2 C. That at the conclusion of this action the preliminary injunction prayed for above be
3 made permanent, and that all infringing materials impounded by the Court during the
4 pendency of this action shall be destroyed; and

5 D. Granting Plaintiff such other and further relief as the Court deems just and proper.

6
7 **JURY DEMAND**

8 Plaintiff demands a trial by jury on all issues so triable.
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10
11 Dated: October 23, 2014

Respectfully submitted,
GOODWIN PROCTER LLP

12
13 /s/ Michael T. Jones

14 Michael T. Jones

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